

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

HARRY LEE MADDUX,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-07-119-M
)	
ALBERT J. HOCH, JR. and RANDY EVERS,)	
)	
Defendants.)	

ORDER

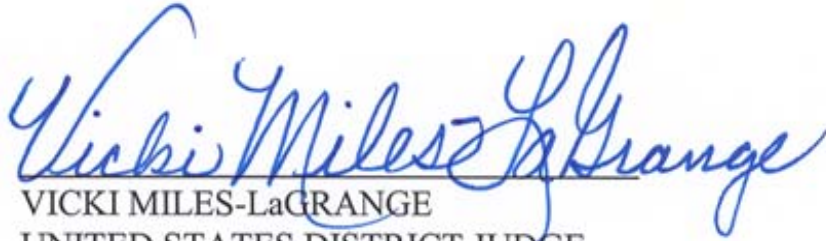
On March 8, 2007, United States Magistrate Judge Valerie K. Couch issued a Report and Recommendation in this action brought pursuant to 28 U.S.C. § 1983. The Magistrate Judge recommended that this matter be dismissed without prejudice pursuant to 28 U.S.C. §1915A(b)(1) and 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim on which relief may be granted and that the dismissal of Plaintiff's claims on this ground should count as a "prior occasion" or "strike" pursuant to 28 U.S.C. § 1915(g). The parties were advised of their right to object to the Report and Recommendation by March 28, 2007. A review of the file reveals no objection has been filed.

Having carefully reviewed this matter *de novo*, the Court:

- (1) ADOPTS the thorough and well-reasoned Report and Recommendation issued by the Magistrate Judge on March 8, 2007; and

- (2) DISMISSES this action pursuant to 28 U.S.C. § 1915A(b)(1) and 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim for relief. The Clerk of the Court is directed to note in docketing that this dismissal counts as one strike against Plaintiff pursuant to 28 U.S.C. § 1915(g).¹

IT IS SO ORDERED this 4th day of April, 2007.



VICKI MILES-LAGRANGE
UNITED STATES DISTRICT JUDGE

¹Dismissal should count as a “prior occasion” only after Plaintiff has exhausted or waived his right to appeal. *See Jennings v. Natrona County Detention Ctr. Med. Facility*, 175 F.3d 775, 780 (10th Cir. 1999).